

AMENDED IN SENATE APRIL 18, 2012

SENATE BILL

No. 1477

Introduced by Senator Anderson

February 24, 2012

An act to amend ~~Section 6206.5 of the Government Code, Sections 1276 and 1277 of the Code of Civil Procedure~~, relating to confidential records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1477, as amended, Anderson. Confidential records: ~~domestic violence victims~~; name changes.

Existing law establishes the procedure for a person to change his or her name. In the case of a petition for the name change of a person under 18 years of age, existing law requires the petition to include the name and address of the minor's parent or parents, as specified, and requires a minor's nonconsenting parent to be served with notice of the time and place of the hearing. When a proceeding for a change of name is commenced by the filing of a petition, existing law requires the court to issue an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed, except as specified. Existing law also authorizes an address confidentiality program for victims of domestic violence, sexual assault, or stalking for the purposes of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record and otherwise providing for confidentiality of identity for that person, subject to specified conditions. Existing law provides that if a petition for a change of name alleges a specified reason or circumstance and the petitioner

is a participant in the address confidentiality program, the action for a change of name is exempt from the publication requirement.

This bill would, in the case of a petition for the name change of a minor signed by the minor's custodial parent, provide that the name and address of the minor's noncustodial parent need not be included in the petition if the petition alleges that the minor's noncustodial parent poses a sufficient threat, as defined, to the minor or to the custodial parent and the court determines that there is clear and convincing evidence of the threat. The bill would also exempt the petition from the publication and service requirements described above if the petitioner is a participant in the address confidentiality program.

~~Existing law authorizes victims of domestic violence or stalking and reproductive health care providers, employees, and volunteers, as defined, to complete an application to be approved by the Secretary of State for the purposes of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record. Existing law specifies reasons for which the Secretary of State is authorized or required to cancel a program participant's certification, including the participant changing his or her name without notifying the Secretary of State or using false information on the application. Existing law prohibits the Secretary of State from making a program participant's address publicly available, except in specified circumstances, including when the participant's program certification has been canceled.~~

~~This bill would make technical, nonsubstantive changes to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1276 of the Code of Civil Procedure is
- 2 amended to read:
- 3 1276. (a) All applications for change of names shall be made
- 4 to the superior court of the county where the person whose name
- 5 is proposed to be changed resides, except as specified in
- 6 subdivision (e), either (1) by petition signed by the person or, if
- 7 the person is under 18 years of age, either by one of the person's
- 8 parents, or by any guardian of the person, or if both parents are
- 9 dead and there is no guardian of the person, then by some near

1 relative or friend of the person or (2) as provided in Section 7638
2 of the Family Code.

3 The petition or pleading shall specify the place of birth and
4 residence of the person, his or her present name, the name
5 proposed, and the reason for the change of name.

6 (b) In a proceeding for a change of name commenced by the
7 filing of a petition, if the person whose name is to be changed is
8 under 18 years of age, the petition shall, if neither parent of the
9 person has signed the petition, name, as far as known to the person
10 proposing the name change, the parents of the person and their
11 place of residence, if living, or if neither parent is living, near
12 relatives of the person, and their place of residence.

13 (c) In a proceeding for a change of name commenced by the
14 filing of a petition, if the person whose name is proposed to be
15 changed is under 18 years of age and the petition is signed by only
16 one parent, the petition shall specify the address, if known, of the
17 other parent if living. If the petition is signed by a guardian, the
18 petition shall specify the name and address, if known, of the parent
19 or parents, if living, or the grandparents, if the addresses of both
20 parents are unknown or if both parents are deceased, of the person
21 whose name is proposed to be changed.

22 (d) In a proceeding for a change of name commenced by the
23 filing of a petition, if the person whose name is proposed to be
24 changed is 12 years of age or older, has been relinquished to an
25 adoption agency by his or her parent or parents, and has not been
26 legally adopted, the petition shall be signed by the person and the
27 adoption agency to which the person was relinquished. The near
28 relatives of the person and their place of residence shall not be
29 included in the petition unless they are known to the person whose
30 name is proposed to be changed.

31 (e) All petitions for the change of the name of a minor submitted
32 by a guardian appointed by the juvenile court or the probate court
33 shall be made in the appointing court.

34 (f) If the petition is signed by a guardian, the petition shall
35 specify relevant information regarding the guardianship, the
36 likelihood that the child will remain under the guardian's care until
37 the child reaches the age of majority, and information suggesting
38 that the child will not likely be returned to the custody of his or
39 her parents.

(g) (1) *In a proceeding for a change of the name of a person under 18 years of age commenced by the filing of a petition signed by the minor's custodial parent, if the minor's custodial parent alleges that the minor's noncustodial parent poses a sufficient threat to the minor or custodial parent, the requirements of subdivision (c) shall not apply if the court determines that there is clear and convincing evidence of the threat.*

(2) *For purposes of this subdivision, "sufficient threat" includes, but is not limited to, a threat of domestic violence, kidnapping, abduction, or homicide against the minor or custodial parent.*

SEC. 2. *Section 1277 of the Code of Civil Procedure is amended to read:*

1277. (a) If a proceeding for a change of name is commenced by the filing of a petition, except as provided in subdivisions (b), (c), and (e), the court shall thereupon make an order reciting the filing of the petition, the name of the person by whom it is filed, and the name proposed. The order shall direct all persons interested in the matter to appear before the court at a time and place specified, which shall be not less than six nor more than 12 weeks from the time of making the order, unless the court orders a different time, to show cause why the application for change of name should not be granted. The order shall direct all persons interested in the matter to make known any objection that they may have to the granting of the petition for change of name by filing a written objection, which includes the reasons for the objection, with the court at least two court days before the matter is scheduled to be heard and by appearing in court at the hearing to show cause why the petition for change of name should not be granted. The order shall state that, if no written objection is timely filed, the court may grant the petition without a hearing.

A copy of the order to show cause shall be published pursuant to Section 6064 of the Government Code in a newspaper of general circulation to be designated in the order published in the county. If no newspaper of general circulation is published in the county, a copy of the order to show cause shall be posted by the clerk of the court in three of the most public places in the county in which the court is located, for a like period. Proof shall be made to the satisfaction of the court of this publication or posting, at the time of the hearing of the application.

1 Four weekly publications shall be sufficient publication of the
2 order to show cause. If the order is published in a daily newspaper,
3 publication once a week for four successive weeks shall be
4 sufficient.

5 If a petition has been filed for a minor by a parent and the other
6 parent, if living, does not join in consenting thereto, the petitioner
7 shall cause, not less than 30 days prior to the hearing, to be served
8 notice of the time and place of the hearing or a copy of the order
9 to show cause on the other parent pursuant to Section 413.10,
10 414.10, 415.10, or 415.40. If notice of the hearing cannot
11 reasonably be accomplished pursuant to Section 415.10 or 415.40,
12 the court may order that notice be given in a manner that the court
13 determines is reasonably calculated to give actual notice to the
14 nonconsenting parent. In that case, if the court determines that
15 notice by publication is reasonably calculated to give actual notice
16 to the nonconsenting parent, the court may determine that
17 publication of the order to show cause pursuant to this subdivision
18 is sufficient notice to the nonconsenting parent.

19 (b) (1) If the petition for a change of name alleges a reason or
20 circumstance described in paragraph (2), and the petitioner is a
21 participant in the address confidentiality program created pursuant
22 to Chapter 3.1 (commencing with Section 6205) of Division 7 of
23 Title 1 of the Government Code, the action for a change of name
24 is exempt from the requirement for publication of the order to
25 show cause under subdivision (a), and the petition and the order
26 of the court shall, in lieu of reciting the proposed name, indicate
27 that the proposed name is confidential and will be on file with the
28 Secretary of State pursuant to the provisions of the address
29 confidentiality program.

30 (2) The procedure described in paragraph (1) applies to petitions
31 alleging any of the following reasons or circumstances:

32 (A) To avoid domestic violence, as defined in Section 6211 of
33 the Family Code.

34 (B) To avoid stalking, as defined in Section 646.9 of the Penal
35 Code.

36 (C) The petitioner is, or is filing on behalf of, a victim of sexual
37 assault, as defined in Section 1036.2 of the Evidence Code.

38 (D) *The petitioner alleges a sufficient threat to a child or*
39 *custodial parent, as described by subdivision (g) of Section 1276,*

1 *and the court determines that there is clear and convincing*
2 *evidence of the threat.*

3 (3) For any petition under this subdivision, the current legal
4 name of the petitioner shall be kept confidential by the court and
5 shall not be published or posted in the court's calendars, indexes,
6 or register of actions, as required by Article 7 (commencing with
7 Section 69840) of Chapter 5 of Title 8 of the Government Code,
8 or by any means or in any public forum, including a hardcopy or
9 an electronic copy, or any other type of public media or display.

10 (4) (A) A petitioner may request that the court file the petition
11 and any other papers associated with the proceeding under seal.
12 The court may consider the request at the same time as the petition
13 for name change, and may grant the request in any case in which
14 the court finds that all of the following factors apply:

15 (i) There exists an overriding interest that overcomes the right
16 of public access to the record.

17 (ii) The overriding interest supports sealing the record.

18 (iii) A substantial probability exists that the overriding interest
19 will be prejudiced if the record is not sealed.

20 (iv) The proposed order to seal the records is narrowly tailored.

21 (v) No less restrictive means exist to achieve the overriding
22 interest.

23 (B) On or before January 1, 2010, the Judicial Council shall
24 develop rules of court and forms consistent with the requirements
25 of this paragraph.

26 (c) A proceeding for a change of name for a witness participating
27 in the state Witness Protection Program established by Title 7.5
28 (commencing with Section 14020) of Part 4 of the Penal Code
29 who has been approved for the change of name by the program is
30 exempt from the requirement for publication of the order to show
31 cause under subdivision (a).

32 (d) If application for change of name is brought as part of an
33 action under the Uniform Parentage Act (Part 3 (commencing with
34 Section 7600) of Division 12 of the Family Code), whether as part
35 of a petition or cross-complaint or as a separate order to show
36 cause in a pending action thereunder, service of the application
37 shall be made upon all other parties to the action in a like manner
38 as prescribed for the service of a summons, as is set forth in Article
39 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of
40 Part 2. Upon the setting of a hearing on the issue, notice of the

1 hearing shall be given to all parties in the action in a like manner
2 and within the time limits prescribed generally for the type of
3 hearing (whether trial or order to show cause) at which the issue
4 of the change of name is to be decided.

5 (e) If a guardian files a petition to change the name of his or her
6 minor ward pursuant to Section 1276:

7 (1) The guardian shall provide notice of the hearing to any living
8 parent of the minor by personal service at least 30 days prior to
9 the hearing.

10 (2) If either or both parents are deceased or cannot be located,
11 the guardian shall cause, not less than 30 days prior to the hearing,
12 to be served a notice of the time and place of the hearing or a copy
13 of the order to show cause on the child's grandparents, if living,
14 pursuant to Section 413.10, 414.10, 415.10, or 415.40.

15 ~~SECTION 1. Section 6206.5 of the Government Code is~~
16 ~~amended to read:~~

17 ~~6206.5. (a) The Secretary of State may cancel a program~~
18 ~~participant's certification if there is a change in the residential~~
19 ~~address from the one listed on the application, unless the program~~
20 ~~participant provides the Secretary of State with at least seven days'~~
21 ~~prior notice of the change of address.~~

22 ~~(b) The Secretary of State may cancel a program participant's~~
23 ~~certification if the program participant changes his or her name~~
24 ~~from the one listed in the application and fails to notify the~~
25 ~~Secretary of State of the name change within seven days of the~~
26 ~~change.~~

27 ~~(c) The Secretary of State may cancel a program participant's~~
28 ~~certification if mail forwarded by the secretary to the program~~
29 ~~participant's address is returned as nondeliverable.~~

30 ~~(d) The Secretary of State shall cancel the certification of a~~
31 ~~program participant who applies using false information.~~

32 ~~(e) Except as provided in subdivision (f) of Section 6206.7 or~~
33 ~~subdivision (e) of Section 6208, records or documents pertaining~~
34 ~~to a program participant shall be held confidential for a period of~~
35 ~~three years after termination of certification.~~

36 ~~(f) All records or documents pertaining to a program participant~~
37 ~~shall be retained for a period of three years after termination of~~

- 1 certification and then destroyed, except for change of name records;
- 2 which shall be retained permanently.

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